



April 11, 2017

Acting Chief Justice Lyn Stuart
Supreme Court of Alabama
300 Dexter Avenue
Montgomery, AL 36104

Re: Report of the Alabama Access to Justice Commission – Spring 2017

Dear Acting Chief Justice Stuart:

This is to provide you with a summary report of the activities and accomplishments of the the Alabama Access to Justice Commission. As you know, the Commission is an all-volunteer group appointed by the Court, and is charged with improving low-income Alabamians' access to legal help and the court system.

Overall state of legal aid in Alabama. The largest provider of legal aid in Alabama is Legal Services Alabama, which has headquarters in Montgomery and operates seven branch offices across the state. About eighty-five percent of LSA's funding comes from the national Legal Services Corporation, which is one of the highest in the nation.

The other primary providers of low-income legal services in Alabama are the state's five pro bono programs. The Birmingham, Madison County, and Montgomery County bar associations operate stand-alone volunteer lawyers programs ("VLP's"), and the South Alabama Volunteer Lawyers Program covers Mobile, Baldwin, Clarke, and Washington counties. The Alabama State Bar VLP covers the state's other 60 counties.

The bar-based VLP's in Alabama enjoy excellent participation from the more than 5,000 Alabama lawyers who volunteer their time and services. Like Legal Services, however, the VLP's also face funding challenges. Legal Services Alabama and IOLTA grant funding make up a substantial proportion of the funding sources for each of them. IOLTA funding has been drastically reduced due to several years of record low interest rates.

Despite the challenging landscape, pro bono in Alabama continues to grow closing 3,899 cases in 2016, but Legal Services and the pro bono programs cannot meet the ever-increasing need for legal help in Alabama. Many low-income Alabamians continue to navigate the court system on their own. They face many difficulties in proceeding without representation, including complicated forms and rules of procedure, statutes and rules that often impose very short

April 11, 2017

Page 2

deadlines and operate to impede the individual's ability to defend against unfair practices, and a lack of understandable and readily available resources to assist them.

The Commission continues to work in a number of ways to address the disadvantages faced by low income litigants, both those who are unrepresented as well as those fortunate enough to have pro bono lawyers.

The Publicity and Public Awareness Committee developed a website, www.alabamaj.org, which provides information about the Commission, and about legal resources in Alabama. The public side of the website provides contact information for legal services and pro bono organizations, as well as forms and resources for individuals who are self-represented. Together with the Self-Representation Committee, the Publicity Committee has recently completed the first in a series of self-help videos designed to assist self-represented litigants in understanding court processes. When completed, these videos will cover not only general litigation information, but also specific types of cases in which individuals often have to represent themselves, such as consumer debt, landlord/tenant matters, and more.

The Commission website also offers resources for pro bono attorneys, including information about volunteer opportunities, FAQs about the need for legal services in Alabama and ways to help, as well as information about Alabama's limited scope representation rules.

The Self-Representation Committee also continues working to develop user-friendly forms and resources for pro se parties, and to disseminate those materials in effective ways. This Committee is especially focused on assisting individuals who are struggling with consumer debt issues.

Pro Bono Committee. In order to recognize the service of Alabama's pro bono attorneys, and to encourage more attorneys to volunteer to help, the Commission's pro bono committee worked with the Alabama Supreme Court last year to launch a pro bono service recognition program. Attorneys who complete at least fifty hours of qualified pro bono service during the prior year can report those hours to the commission using a simple online form. The VLPs also directly report the pro bono hours contributed by their volunteers. During Pro Bono Month, eligible attorneys are invited to a reception at the Alabama Supreme Court, where they receive a certificate of achievement, and the thanks and recognition of the Court and the Commission. Last year's inaugural event was very successful. The 2016 event recognized 95 Pro Bono Exemplars and took place October 18.

The Commission has also launched an online pro bono portal, which can be accessed through the Commission website. This program, called "Alabama Legal Answers, allows low income Alabamians who may not have local access to a legal services organization receive help online from participating pro bono attorneys. This tool acts as a virtual legal clinic. After providing qualifying income information, the individual posts a description of his legal problem on the secure site. Pro bono attorneys who have registered to participate can review and accept questions with which they are able to assist, and interact via the site with the individual to

provide advice and solutions. Now that Alabama Legal Answers has been fully implemented, plans are being made to begin a publicity and recruitment effort to ramp up both attorney participation and client awareness and utilization of the site. The Birmingham Bar Volunteer Lawyer Program will begin offering training sessions to enroll pro bono attorneys, and will then publicize the availability of the resource throughout its service area. Thereafter, we plan to replicate the process in other parts of the state, and to particularly focus on rural areas where access to legal services organizations is difficult.

Over the last two years, the Commission has been working with the Alabama State Bar's Office of General Counsel to make it possible for pro bono attorneys from large firms to volunteer to assist debtors in Chapter 7 bankruptcy proceedings. Since these firms typically represent large creditors, they are nearly always conflicted out of taking these pro bono cases. This, in turn, makes it difficult for our VLPs to establish effective bankruptcy pro bono programs. A number of other State Bars or Supreme Courts have issued opinions addressing this problem, finding that since a discharge will automatically be issued if no creditor objection is filed, there is no active conflict unless such an objection occurs. Recently, with the assistance of several bankruptcy practitioners, progress has been made. The Bar has released an informal opinion recognizing that there is no conflict that prevents the large firm attorney from helping low income debtors in bankruptcy matters, so long as a firm client does not object to the discharge.

Our Rules and Procedures Committee has engaged the Administrative Office of Courts, the Supreme Court's Rules Committee, and a number of judges and lawyers in an effort to address legal and procedural issues that impact lower income people in inequitable ways.

One very successful project led to the creation of a "bench card" for use by municipal and district court judges that provides clear guidance on the handling of fines, fees and court costs in cases involving indigent people. The bench card, issued in November 2015 and distributed by AOC, addresses how fines, fees and court costs can be imposed and enforced in cases of indigency, alternative penalties and remedies for nonpayment, the right to counsel, and bail. The bench card has been well received, and AOC has been requested to provide additional copies for distribution at judges' conferences.

A related project, a bench book providing general guidance on effectively dealing with self-represented parties, has been completed and continues to be reviewed by AOC and some judges who have been asked to comment on it.

The Rules and Procedures Committee also has provided input to the Alabama Supreme Court's Rules Committee on proposed rule changes related to garnishments and default judgments, and has met with Justice Bolin and others on improving access to the probate courts for indigent parties.

Early this year, an Ad Hoc Committee on the appropriate use of Commission funds was established. Its purpose is to seek grant applications for projects that will increase access to justice in Alabama, and to award funds as appropriate pursuant to those applications. A request

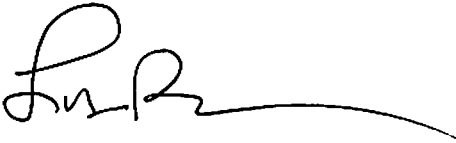
April 11, 2017

Page 4

for proposals to create a program to provide direct legal service in rural areas did not result in any acceptable proposals, but a new RFP is planned in the near future.

On behalf of the entire Commission, thank you for the opportunity you have given us to address barriers to access to justice, and to serve the interests of Alabamians in need. Please do not hesitate to let me know if you have any questions, comments, or suggestions regarding our work.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa W. Borden', with a long horizontal flourish extending to the right.

LISA W. BORDEN

Chair

Alabama Access to Justice Commission

Enclosures

cc: Justice Michael F. Bolin (w/enclosures)
Cole Portis, State Bar President (w/enclosures)